



# Planning Commission Hearing Staff Report Hearing Date: June 12, 2019

---

**\*ITEM 1** The Community Development Department requests Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as other related code sections pertaining to the S and A overlay zones. City-wide application. Brian Maxfield (801) 852-6429 PLOTA20190120

---

<p><u>Applicant</u>: Community Development</p> <p><u>Staff Coordinator</u>: Brian Maxfield</p> <p><u>Property Owner</u>: N/A <u>Parcel ID#</u>: City-Wide <u>Acreage</u>: N/A <u>Number of Properties</u>: N/A</p> <p><u>Current Zoning</u>: NA</p> <p><b><u>ALTERNATIVE ACTIONS</u></b></p> <p>1. <b>Continue</b> to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is May 8, 2019 at 6:00 P.M.</i></p> <p>2. <b>Recommend denial.</b> <i>This action <u>would not be consistent with the recommendation of the Staff Report.</u> The Planning Commission should <u>state new findings.</u></i></p>	<p><u>Relevant History</u>: This item continued at the April 24<sup>th</sup> and May 22<sup>nd</sup> meetings of the 2019 Planning Commission. Prior to the May 22<sup>nd</sup> meeting the proposed amendment was discussed in detail at the Planning Commission's Study Session.</p> <p><u>Neighborhood Issues</u>: This is a City-Wide issue. Several Neighborhood Chairs have inquired about the proposed amendment, and Paul Evans of the Pleasant View neighborhood submitted comments that were distributed to the Planning Commission and then reviewed in detail at the Planning Commission study session of May 22, 2019.</p> <p><u>Summary of Key Issues</u>: Appropriateness of new allowances regarding detached units and requirements for licensing.</p> <p><u>Related Items</u>: None</p> <p><u>Staff Recommendation</u>: <b>Recommend Approval</b> of the proposed Ordinance Amendment to consolidate the two current sections of the Zoning Ordinance, as well as the related amendments, as contained in Exhibit "B."</p> <p><i>This action <u>would be consistent with the recommendations of the Staff Report.</u></i></p>
---	---

## **OVERVIEW**

This item is an Ordinance Text Amendment to consolidate Chapter 14.30 S - Supplementary Residential Overlay Zone with Chapter 14.46 A - Accessory Apartment Overlay Zone, as well as adopt related amendments. This item was first heard at the April 24, 2019 Planning Commission meeting where it was continued to the May 22, 2019 meeting. The amendment was discussed in detail at the May 22, 2019 Planning Commission's Study Session along with the comments submitted by Paul Evans, the Pleasant View Neighborhood Chair. The item was then continued at the May 22<sup>nd</sup> meeting, to allow time for Staff to present the changes discussed at the study session.

Staff has made changes to the proposed amendment based on comments at the May 22, 2019 study session. These are indicated by the double-underline in blue within the attached Exhibit "B" to set it apart from that of Exhibit "A" that was included in the previous staff report and at the study session. The new changes are of two kinds: The first includes formatting and grammatical changes. These changes are indicated in Exhibit "B," but are not presented in this report.

The second group includes changes that add wording meant to clarify the intent of particular sections. These are further described in the following paragraphs numbered 1 to 3, along with staff's newly proposed changes shown in blue double-underline.

1. Adds "Apartment" after the word "Accessory" in the Title.

### **Chapter 14.30**

#### **S—Supplementary Residential and Accessory Apartment Overlay Zones.**

2. Addition of the term "Accessory Dwelling Unit (ADU)" to the definition section as an equivalent term for "Accessory Apartment."

#### **14.06.020. Definitions.**

For the purposes of this Title, certain words and phrases have the following meanings:

"**Accessory Apartment**" or "**Accessory Dwelling Unit (ADU)**" means a subordinate residential living area created within conjunction with a one family dwelling which:

- (a) meets the requirements of the applicable zone where the accessory apartment is located; and
  - (b) has an interior connection between the one family dwelling and accessory apartment meets the requirements of Provo City Code Chapter 14.30.
3. Clarification changes added under Subsection "(2) Accessory Apartment Development Standards," located under "Section 14.30.030. Permitted Uses." They are detailed below with their intent and the fully amended text following.

- **(2)(b)(i)**: Changes wording that was awkward as it sounded as if parking might occur on the second floor of a garage or that the required covered parking had the possibility of being converted to living space;
- **(2)(b)(iv)(1)**: Clarifies the minimum lot standard applies to an accessory apartment rather than an accessory structure;
- **(2)(b)(iv)(2)**: Clarifies that a detached accessory apartment is also an accessory structure – basically, a detached accessory apartment can be either a stand-alone accessory structure, or else attached to an existing accessory structure;
- **(2)(b)(iv)(3)**: Clarifies that any accessory structure that is solely an accessory apartment or else an existing accessory structure to which an accessory apartment is added, must have a minimum setback of 10 feet from any property line, regardless of where the apartment is located within the structure;
- **(2)(b)(iv)(7)**: Basically allows shipping containers only as structural components, but must be clad with materials similar to the principal dwelling, and be architecturally compatible with the principal dwelling;
- **(2)(c)**: Clarifies the external evidence of the second unit being “from a street view” and also states “yard areas” instead of “exterior” of the property needed to be maintained.
- **(2)(k)(iii)**: Clarifies that any fee charged for a Rental Dwelling License is for the processing of the license, and not for the inspection of the unit; and,
- **(2)((k)(vi)**: Expands the term “Community Development” to “the Community Development Department.”

(2) Accessory Apartment **Development Standards**. Accessory apartments shall be ~~allowed only in one-family dwellings~~, subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in **conjunction with** each one-family dwelling.;

(b) Location. ~~The a~~Accessory apartments may be located **only: in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;**

**(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space or stairs, or accessory unit does not otherwise disrupts required covered parking;**

**(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;**

**(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or**

(iv) As a detached accessory structure or within a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The detached accessory structure apartment shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure in which the accessory apartment is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet and no nor less than 200 square feet in area;

(3) The A detached accessory structure apartment or a detached accessory structure containing an accessory apartment shall be setback from any property line a minimum of 10 feet have a minimum setback of 10 feet from any property line;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment unless they can meet all building codes; are clad with materials similar to those of the principal dwelling; and the resulting structure is architecturally compatible with the architectural style of the principal dwelling.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and ~~does~~ shall not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The ~~exterior~~ yard areas of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations. ~~;~~ and

(k) Rental Dwelling License Accessory Apartment Permit. In accordance with Provo City Code Chapter 6.26, Aany person operating constructing or causing the construction of a one-family dwelling that has an

accessory apartment under this Chapter ~~or any person remodeling or causing the remodeling of a one family dwelling for an accessory apartment, or any person desiring an accessory apartment,~~ shall obtain ~~an accessory apartment permit~~ Rental Dwelling License (RDL) ~~from the Community Development Department.~~ Such ~~license permit~~ shall be in addition to any building permits that may be necessary. Before ~~a~~ Rental Dwelling License for an accessory apartment ~~permit~~ is issued, the applicant shall:

....

(iii) Pay an inspection application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

....

(vi) The owner shall cooperate with the Community Development Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an ~~the (S)~~ overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

## **CONCLUSIONS**

Staff believes the proposed amendment, especially in regards to an allowance for detached accessory dwelling units, will work to provide additional and needed affordable housing options for areas in the City that allow accessory dwelling units. As the proposed amendment only affects areas that now allow at least one of the current options, it is not believed the joining of the two overlay zones will create new impacts on adjoining residential areas. Newly proposed areas will need to be examined and evaluated for resulting impacts as part of their approval process.

## **RECOMMENDATION**

**Recommend Approval** of the proposed Ordinance Amendment to consolidate the two current sections of the Zoning Ordinance, as well as the related amendments, as contained in Exhibit "B."

## **ADDENDUM**

1. FAQs for A and S Overlays
2. Email from R Paul Evans - S & A Overlays

## EXHIBIT "B"

**Zoning Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as related amendments to Chapters 6.01 or 6.02; Chapter 14.06; Sections 14.10.020(5), 14.11.020(5), 14.12.020(5), 14.12A.020(5), 14.13.020(5), 14.14.020(5), 14.32.020(5) regarding Permitted Accessory Uses; 14.32.050. Lot Area Per Dwelling Unit; 14.32.220(5) Caretaker Dwellings as an Accessory Use; 14.34.310-1 Minimum Floor Area; 14.34.440 Second Kitchen in One-family Dwellings; 14.37.060 Parking Spaces Required; 14.37.080 General Provisions; 14.37.100 Parking Design Standards; and 15.04.050 Density and Open Space Determination.**

### **6.02.010. Definitions.**

The following terms as used in this Title shall have the meanings indicated:

...

**"Rental dwelling"** means, ~~except as provided in Subsection (c) of this definition,~~ a building or portion of a building used or designated for use as a residence by one (1) or more persons that is:

- (a) Available to be rented, loaned, leased, or hired out for a period of one (1) month or longer; or
- (b) Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one (1) month or longer.

~~(c) An accessory apartment in an owner-occupied one family dwelling shall not be deemed a rental dwelling.~~

**"Short-term rental dwelling"** means a building or portion of a building, or a mobile or a manufactured home used, designated or designed for use as a residence by one (1) or more persons that is:

- (a) Available to be rented, loaned, leased, or hired out for a period of less than one (1) month; or
- (b) Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of less than one (1) month.

### **6.26.010. Definitions.**

Words and phrases contained herein which are defined in Chapters [6.01](#) or 6.02 of this Title, or Chapter [14.06](#) of Title [14](#), as amended, shall have the meanings set forth in such chapters. If there is a conflict between definitions contained in Title 14 and definitions contained in this Title, the definitions in this Title shall govern for the purposes of interpreting this Title.

### **14.06.020. Definitions.**

For the purposes of this Title, certain words and phrases have the following meanings:

**“Accessory Apartment”** or **“Accessory Dwelling Unit (ADU)”** means a subordinate residential living area created ~~within~~ conjunction with a one family dwelling which:

(a) meets the requirements of the applicable zone where the accessory apartment is located; and

(b) ~~has an interior connection between the one family dwelling and accessory apartment~~ meets the requirements of Provo City Code Chapter 14.30.

...

**“Family,”** unless otherwise expressly provided in this Title, means:

(a) One (1) individual living alone; or

(b) One (1), but not more than one (1) at the same time, of the following groups of individuals described in Subsection (b)(i) or (ii) of this definition who together occupy a one-family dwelling unit as one (1) nonprofit housekeeping unit and who share common living, sleeping, cooking and eating facilities:

(i) A head of household and:

(A) All persons related to the head of household as a spouse, parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild by blood, marriage, adoption, guardianship, or any other duly authorized custodial relationship; and

(B) Not more than two (2) additional related or unrelated persons, including, but not limited to, personal care or personal service providers; or

(ii) Three (3) related or unrelated individuals and any children of either individual, if any.

(c) In applying this definition the existence of more than one (1) kitchen in a dwelling unit shall create a presumption that two (2) housekeeping units exist in the dwelling.

(d) “Family” does not include:

(i) Batching singles, as defined in this Section, even if related as set forth in Subsection (b)(i)(A) of this definition;

(ii) Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;

(iii) Any number of individuals whose association is temporary or seasonal in nature; or

(iv) Any number of individuals who are in a group living arrangement as a result of criminal offenses.

...

#### **14.10.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2 zone, provided they are incidental to and do not substantially alter the character of the permitted

principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.30.030.

...

#### **14.11.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(h) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.~~30~~46.030, ~~Provo City Code~~.

...

#### **14.12.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2.5 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.~~30~~46.030, ~~Provo City Code~~.

...

**14.12A.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R3 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.~~30~~46.030, ~~Provo City Code~~.

...

**14.13.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R4 zone, provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(g) Accessory dwelling unit in an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14. ~~30~~46.030, ~~Provo City Code~~.

...

**14.14.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R5 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(f) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.3046.030, ~~Provo City Code~~.

...

### **Chapter 14.30**

#### **S—Supplementary Residential and Accessory Apartment Overlay Zones.**

- 14.30.010. Purpose and Objectives.
- 14.30.020. Use in Combination.
- 14.30.030. Permitted Uses.
- 14.30.040. Development Standards.
- 14.30.050. Area of Zone.
- 14.30.060. Petition for Zone Adoption.
- 14.30.070. Parking Requirements.
- 14.30.080. Nonconforming Uses.
- 14.30.090. Termination of Nonconforming Uses - Recovery of Investment.

#### **14.30.010. Purpose and Objectives.**

(1) The purpose of the Supplementary Residential (S) overlay zone is to recognize the unique character of Provo City as a "university community" and to accommodate supplementary living accommodations in some appropriate one-family residential areas of the community. These provisions are intended to meet community demands for residential accommodations for semi-transient residents in areas of the community adjacent to major educational and institutional uses. This overlay zone is designed to provide an alternative living environment for said semi-transient residents to that normally found within the higher density multiple residential zones. The (S) overlay zone will therefore protect and enhance the desirable aesthetic characteristics of the underlying one-family residential zone. An R1 zone with a Supplementary Residential (S) overlay as described in this Chapter is intended to continue the very low density of an R1 zone. The sole function of the overlay is to permit alternate methods of housing the occupancy otherwise permitted in an R1 zone.

(2) The Accessory Apartment (A) overlay zone is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of an accessory apartment in conjunction with one-family detached dwellings on individual lots. The Accessory Apartment overlay zone is hereby established to promote the use of accessory apartments; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age.

#### **14.30.020. Use in Combination.**

(1) The ~~Supplementary Residential (S)~~ overlay zones described in this Chapter may be used only in combination with other zones as follows:

(a) the Supplementary Residential (S) overlay zone may be used only in combination with the ~~R1 (One-Family Residential) (R1)~~ zone; and ~~as designated herein~~

(b) the Accessory Apartment (A) overlay zone may be used only in combination with the Agricultural (A1), Residential Agricultural (RA), or One-Family Residential (R1) zones.

(2) The provisions of the ~~(S)~~ overlay zones shall be supplementary to the provisions of the zone with which it is combined. If conflict arises between the provisions of the ~~(S)~~ overlay zones and the provisions of the R1 zone with which it is combined, the provisions of the ~~(S)~~ overlay zones shall be deemed controlling. The ~~(S)~~ overlay zones shall not be applied to any land area as an independent zone.

#### **14.30.030. Permitted Uses.**

(1) Permitted Principal Uses. Principal ~~U~~ uses permitted in the ~~Supplementary Residential (S)~~ overlay zones described in this Chapter shall be limited to the following:

(a) Those uses listed as permitted principal uses in the underlying ~~R1~~ zone with which the overlay zone has been combined in accordance with Section 14.30.020; and

(b) Accessory apartments which meet the development standards of Subsection (2) of this Section, with a valid Rental Dwelling License.

(2) Accessory Apartment Development Standards. Accessory apartments shall be ~~allowed only in one family dwellings~~, subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in conjunction with each one-family dwelling;

(b) Location. ~~The a~~Accessory apartments may be located only: in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;

(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space or stairs, or accessory unit does not otherwise disrupts required covered parking;

(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;

(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or

(iv) As a detached accessory structure or within a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The detached accessory structure apartment shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure in which the accessory apartment is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet and ~~no~~ nor less than 200 square feet in area;

(3) ~~The A~~ detached accessory structure apartment or a detached accessory structure containing an accessory apartment shall be setback from any property line a minimum of 10 feet have a minimum setback of 10 feet from any property line;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment unless they can meet all building codes; are clad with materials similar to those of the principal dwelling; and the resulting structure is architecturally compatible with the architectural style of the principal dwelling.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and ~~does~~ shall not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The ~~exterior~~ yard areas of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations. ~~;~~ ~~and~~

(d) Occupancy. A one-family dwelling with an accessory apartment, which is authorized by and conforms to the requirements set forth in this section, shall, for purposes of this subsection, consist of two component parts: the one-family dwelling; and the accessory apartment. Those two parts shall be occupied as follows:

(i) Except as otherwise provided in subsection (iv), either ~~T~~the one-family dwelling or the accessory apartment shall be the owner's primary residence as defined in Provo City Code Chapter 14.06, Provo City Code. If this requirement is not met, no accessory apartment shall be permitted. The dwelling must be owner-occupied by:

~~(A) One (1) person living alone; or~~

~~(B) The head of household and all persons related to the head of household by marriage or adoption as a parent, child, grandparent, brother, sister, uncle, aunt, nephew, niece, great grandparent or great grandchild.~~

~~For purposes of this Subsection, two (2) or more of the persons must share the legal relationship of husband and wife, or parent and child or grandparent and child. Such parent or grandparent must actually reside in the subject dwelling as their primary residence.~~

(ii) The occupancy of the one-family dwelling shall be limited to one "family" as that term is defined in Provo City Code Chapter 14.06, except that if the accessory apartment is also occupied, the occupancy of the one-family dwelling shall not include the ~~(C) T~~two additional related or

unrelated individuals described in Provo City Code Section 14.06.020(b)(i)(B) ~~are not permitted under Subsection (2)(d)(i)(A) or (B) of this Section.~~

(iii) Except as permitted by subsection (4)(a) of this Section, ~~t~~The accessory apartment ~~within the structure~~ shall not ~~may~~ be occupied by ~~no~~ more than ~~four~~ two (4~~2~~) related or unrelated adults, with or without minor children.

(iv~~ii~~) Owner occupancy shall not be required when the owner has submitted a temporary absence application prior to beginning the temporary absence and meets the following criteria:

(A) The owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, military service, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or

(B) The owner is placed in a hospital, nursing home, assisted living facility or other similar facility.

(C) Owner occupancy shall have the meaning set forth in Section 14.06.020, Provo City Code.

(D) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.

(e) Parking. A one-family dwelling with an accessory apartment shall have at least four (4) off-street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the accessory apartment or the principal part of the dwelling unit. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. Parking in the front setback is prohibited unless the driveway leads to required covered parking. Parking shall comply with all other regulations of Chapter 14.37, Provo City Code.

(f) Utility Meters. A one-family dwelling with an accessory apartment shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.

(g) Addresses. The accessory apartment shall have its own address.

(h) Outside Entrances. Outside entrances to the accessory apartment shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.

(i) Building Codes. All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed accessory apartment shall meet current building codes.

(j) Kitchens. A one-family dwelling with an accessory apartment is permitted two (2) kitchens; one (1) for the principal part of the dwelling and one (1) for the accessory apartment. No other kitchens, wet bars or other food preparation areas are permitted. Refer to Chapter 14.06, Provo City Code, Interpretation and Definitions, "Kitchen," for the definition of what constitutes a kitchen per the Provo City Code.

(k) Rental Dwelling License Accessory Apartment Permit. In accordance with Provo City Code Chapter 6.26, ~~Any person operating constructing or causing the construction of a one-family dwelling that has~~ an accessory apartment under this Chapter ~~or any person remodeling or causing the remodeling of a one-family dwelling for an accessory apartment, or any person desiring an accessory apartment,~~ shall obtain an ~~accessory apartment permit~~ Rental Dwelling License (RDL) from the Community Development Department. Such ~~license permit~~ shall be in addition to any building permits that may be necessary. Before a ~~an~~ Rental Dwelling License for an accessory apartment ~~permit~~ is issued, the applicant shall:

(i) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.

(ii) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.

(iii) Pay an inspection application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(iv) Noncompliance with the standards of this Section shall be just cause for the denial or revocation of a Rental Dwelling License for an accessory apartment ~~permit~~. Revocation shall be in accordance with the license regulations in ~~decided based upon the findings of fact at an administrative hearing before a hearing officer, per Chapter 3.06,~~ Provo City Code Chapters 6.01 and 6.26.

(v) Notwithstanding, Provo City Code Section 6.01.090, ~~T~~he approval of a ~~permit~~ Rental Dwelling License for an accessory apartment shall automatically expire three one (31) ~~years~~ after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new

owner may apply for an extension of such Rental Dwelling License accessory apartment permit.

(vi) The owner shall cooperate with the Community Development Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an the (S) overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

~~(l) Prior Uses. The Community Development Department shall issue a permit for any accessory apartment existing at the time of the adoption of this Chapter if the following conditions are met:~~

~~(i) The accessory apartment complies with this Title; and~~

~~(ii) A building permit was issued when the accessory apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall pay an inspection fee and the Chief Building Official ("CBO") or his designee shall inspect the accessory apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued. (l) Minimum unit size. An accessory apartment is only permitted if the one-family dwelling unit, not including the accessory apartment, is no smaller than 1200 square feet.~~

(m) Bedrooms. An accessory apartment shall not have more than two bedrooms, except that an accessory apartment for which a Conditional Use Permit has been granted under subsection (4) of this Section to allow occupancy by no more than four (4) related or unrelated adults may have no more than four bedrooms.

(3) Permitted Accessory Uses. Accessory uses permitted in the overlay zones shall be limited to those uses listed as permitted accessory uses in the underlying zone with which the overlay zone has been combined in accordance with Section 14.30.020.

(4) Conditional Uses. Except as provided in this subsection (4), conditional uses permitted in the overlay zones shall be limited to those uses listed as permitted conditional uses in the underlying zone with which the overlay zone has been combined in accordance with Section 14.30.020. In addition, the following uses and structures are permitted in the Supplementary Residential (S) overlay zone, but only after a Conditional Use Permit has been approved and subject to the terms and conditions thereof:

(a) In the Supplementary Residential (S) overlay zone only, accessory apartments that are occupied by no more than four (4) related or unrelated adults, with or without minor children, if, and only if, such use:

(i) meets the parking requirements of Subsection (2)(e), including particularly the requirement that the number of off-street parking spaces may not be less than the number of vehicles being maintained on the premises at any time; and

(ii) meets all other development standards of Subsection (2), other than the occupancy limit in Subsection (2)(d)(ii).

#### **14.30.040. Development Standards.**

Each one-family dwelling with an accessory apartment shall conform to the development standards required by the provisions of the underlying zone with which the overlay zone is combined. ~~All development standards required in the Supplementary Residential (S) overlay zone shall be the same as those required by the provisions of the underlying zone with which the (S) zone is combined.~~

#### **14.30.050. Area of Zone.**

An overlay zone described in this Chapter may only be applied to a contiguous ~~The Supplementary Residential (S) overlay zone shall be applied to a land area of at least ~~ten (10)~~ four (4) acres ~~or more that which~~ contains at least ~~forty (40)~~ sixteen (16) existing dwelling structures; and ~~which that~~ that is at least fifty percent (50%) developed. The land area to which any overlay zone described in this Chapter is applied shall be free from islands or peninsulas or any other unreasonable boundary line configurations. Additions to an existing ~~(S)~~ overlay zone are allowed so long as the resulting contiguous land area of an overlay shall be by petition which conforms to all provisions of this Section ~~Chapter~~ except acreage, and number of dwellings.~~

#### **14.30.060. Petition for Zone Adoption.**

(Rep 2007-32)

#### **14.30.070. Parking Requirements.**

(Am 1990-31, Rep 2013-49)

#### **14.30.080. Nonconforming Uses.**

(Am 2000-15, Rep 2013-49)

#### **14.30.090. Termination of Nonconforming Uses - Recovery of Investment.**

(Enacted 2000-15, Rep 2013-49)

**14.32.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the RC zone, provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(g) Accessory apartment in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Chapter Section 14.3046.030, Provo City Code.

...

**14.32.050. Lot Area Per Dwelling Unit.**

On a given lot or parcel, the number of dwelling units (density) shall not be increased beyond the density which legally existed on April 2, 2002 except as provided in this Section.

(a) Legally existing dwelling units may be replaced with an identical or lesser number of units so long as such replacement meets all other applicable requirements of this Title.

(b) Notwithstanding the density limitation of Subsection (a), an accessory apartment which meets the requirements of this Title may be created in conjunction with ~~within~~ a one-family dwelling even if the date of creation is after April 2, 2002.

**14.34.220. Caretaker Dwellings as an Accessory Use.**

In zones that specifically allow caretaker dwellings as permitted accessory use, such dwellings may be established only if such dwellings:

...

(5) have no associated ~~contain no~~ accessory apartment;

...

**Table 14.34.310-1 Minimum Floor Area**

...

1 For dwellings with an associated accessory apartment, located in the RC or A-overlay or S-overlay zone, the minimum floor areas shown may include the principal living area and the accessory living area, except that any living area within a basement may not be counted toward the minimum main floor area requirement.

...

**14.34.440. Second Kitchen in One-family Dwellings.**

(1) One (1) or more additional kitchen(s) in a one-family dwelling unit shall be allowed only in an A1, RA, R1, or RC zone, including a Performance Development Overlay (PD) zone used in combination with these zones, if all of the following requirements are met:

...

(2) An additional kitchen shall not be established in a one-family dwelling unit which ~~contains~~ is associated with an accessory apartment, whether or not such apartment was established pursuant to Provo City Code Chapter 14.30 (Supplementary Residential (~~S~~) and Accessory Overlay Zones) ~~or~~ Chapter 14.46 (Accessory Apartment (A) Overlay Zone), Provo City Code.

**14.37.060. Parking Spaces Required.**

Except as otherwise provided in this Title, the number of off-street parking spaces for varied uses/areas shall be as follows:

residential

Use

...

RESIDENTIAL DWELLINGS

...

One and two family

## Parking Spaces Required

The greater of tThree (3) spaces per unit, ~~plus~~ or one (1) space per vehicle or recreational vehicle owned or operated by residents. In the R1.10 zone two (2) spaces must be covered; a minimum of one (1) space must be covered for single dwellings in all other residential zones; and two (2) of the six (6) spaces required for duplexes must be covered in their respective zones. See also 14.37.080(1)(c)(i).

**14.37.080. General Provisions.**

The following general provisions shall apply to off-street parking requirements in this Chapter.

(1) Location. Off-street parking facilities shall be located as hereinafter specified:

...

(c) No off-street parking shall be permitted in a required front yard or street side yard, as otherwise stipulated in the respective zones, with the following exceptions:

(i) Parking spaces for a one-family dwelling, a one-family dwelling associated with an accessory apartment, and a two-family dwelling may be located on a driveway in a required front yard, provided:

(A) Such driveway leads to the minimum number of required covered off-street parking spaces which are located behind any required front setback, and

(B) Both parking spaces in each tandem parking area are designated to serve the same dwelling unit.

...

**14.37.100. Parking Design Standards.**

All off-street parking facilities shall be built consistent with Figures 14.37.100(a) through 14.37.100(d) as set forth at the end of this Section and in conformance with the following design standards except as otherwise provided in Subsection (16) of this Section:

...

(9) Tandem parking (front to rear) shall not be permitted, except for a one-family dwelling, one-family dwelling associated with an accessory apartment, and a two-family dwelling when the front and back spaces in each tandem parking area are both designated to serve the same dwelling unit, and the

number of covered spaces required in the respective zone are located behind the front setback.

• • •

## ~~Chapter 14.46~~ ~~A – Accessory Apartment Overlay Zone.~~

- ~~14.46.010. — Purposes and Objectives.~~
- ~~14.46.020. — Use in Combination.~~
- ~~14.46.030. — Permitted Uses.~~
- ~~14.46.040. — Additional Development Standards.~~
- ~~14.46.050. — Area of Zone.~~
- ~~14.46.060. — Petition for Zone Adoption.~~
- ~~14.46.070. — Nonconforming Uses.~~

### ~~14.46.010. Purposes and Objectives.~~

~~The Accessory Apartment overlay zone ("A overlay") is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of accessory apartment in one family detached dwellings on individual lots. The Accessory Apartment overlay zone is hereby established to promote the use of accessory apartment; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age.~~

### ~~14.46.020. Use in Combination.~~

~~(1) The Accessory Apartment (A) overlay zone may be used in combination with any of the following zones: A1, RA, R1. The provisions of the (A) overlay zone shall be supplementary to the provisions of the zone with which it is combined. If conflict arises between the provisions of the (A) overlay zone and the provisions of any zone with which it is combined, the provisions of the (A) overlay zone shall be deemed controlling. The (A) overlay zone shall not be applied to any land area as an independent zone.~~

~~(2) The Accessory Apartment overlay zone designation (A) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. When applied to a land area, said combined designation shall be~~

~~shown on the zone map of Provo City as set forth in the following example: When the Accessory Apartment (A) overlay zone is combined with the one-family Residential (R1) Zone having an eight thousand (8,000) square foot minimum lot size, it shall be designated upon the zone map of Provo City as "R1.8(A)."~~

**~~14.46.030. Permitted Uses.~~**

~~(1) Uses permitted in the Accessory Apartment (A) overlay zone shall be limited to the following:~~

~~—(a) Those uses listed as permitted uses in the underlying zone; and~~

~~—(b) Accessory apartments which meet the development standards of Subsection (2) of this Section.~~

~~(2) Accessory apartments shall be allowed only in one-family dwellings, subject to the following development standards:~~

~~—(a) Number. No more than one (1) accessory apartment shall be permitted in each one-family dwelling.~~

~~—(b) Location. The accessory apartment may be created:~~

~~—(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space, stairs or otherwise disrupts required covered parking; or~~

~~—(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas; or~~

~~—(iii) By an addition to the house, containing an internal connection between the accessory apartment and the principal part of the dwelling unit; provided, that the addition will not alter the one-family character of the building.~~

~~—(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family residence dwelling. There shall be no external evidence of occupancy by more than one (1) family, such as two (2) front doors. The exterior of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations.~~

~~—(d) Occupancy. For purposes of a one family dwelling with an accessory  
—apartment, which is authorized by and conforms to the requirements stated  
in this Section, the following occupancy rules shall apply:~~

~~(i) The dwelling shall be the owner's primary residence as defined  
in Chapter 14.06, Provo City Code. The dwelling must be owner-  
occupied by:~~

~~(A) One (1) person living alone; or~~

~~(B) The head of household and all persons related to the  
head of household by marriage or adoption as a parent,  
child, grandparent, brother, sister, uncle, aunt, nephew,  
niece, great-grandparent or great-grandchild. For purposes  
of this Subsection, two (2) or more of the persons must share  
the legal relationship of husband and wife, or parent and  
child or grandparent and child. Such parent or grandparent  
must actually reside in the subject dwelling as their primary  
residence.~~

~~(C) Two additional unrelated individuals are not permitted  
under Subsection (2)(d)(i)(A) or (B) of this Section.~~

~~(ii) The accessory apartment within the structure may be occupied  
by no more than two (2) related or unrelated adults, with or  
without minor children.~~

~~(iii) Owner occupancy shall not be required when the owner has  
submitted a temporary absence application prior to beginning the  
temporary absence and meets the following criteria:~~

~~(A) The owner has a bona fide, temporary absence of three (3)  
years or less for activities such as temporary job  
assignments, sabbaticals, military service or voluntary  
service (indefinite periods of absence from the dwelling shall  
not qualify for this exception), or~~

~~(B) The owner is placed in a hospital, nursing home, assisted  
living facility or other similar facility.~~

~~(C) Owner occupancy shall have the meaning set forth in  
Section 14.06.020, Provo City Code.~~

~~(D) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.~~

~~(e) Parking. A one family dwelling with an accessory apartment shall have at least four (4) off street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the accessory apartment or the principal part of the dwelling unit. In no case shall the number of off street parking spaces be less than the number of vehicles being maintained on the premises. Parking in the front setback is prohibited unless the driveway leads to required covered parking. Parking shall comply with all other regulations of Chapter 14.37, Provo City Code.~~

~~(f) Utility Meters. A one family dwelling with an accessory apartment shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.~~

~~(g) Addresses. The accessory apartment and the principal part of the dwelling unit shall each have its own address.~~

~~(h) Outside Entrances. Any new outside entrance to the accessory apartment shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.~~

~~(i) Building Codes. All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed accessory apartment shall meet current building codes.~~

~~(j) Kitchens. A one family dwelling with an accessory apartment is permitted two (2) kitchens; one (1) for the principal part of the dwelling and one (1) for the accessory apartment. No other kitchens, wet bars or other food preparation areas are permitted. Refer to Chapter 14.06, Provo City Code, Interpretation and Definitions, "Kitchen," for the definition of what constitutes a kitchen per the Provo City Code.~~

~~(k) Accessory Apartment Permit. Any person constructing or causing the construction of a one family dwelling that has an accessory apartment or any person remodeling or causing the remodeling of a one family dwelling for an accessory apartment, or any person desiring an accessory apartment, shall obtain an accessory apartment permit from the~~

~~Community Development Department. Such permit shall be in addition to any building permits that may be necessary. Before an accessory apartment permit is issued, the applicant shall:~~

~~(i) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.~~

~~(ii) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.~~

~~(iii) Pay an application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

~~(iv) Noncompliance with the standards of this Section shall be just cause for the revocation or denial of an accessory apartment permit. Revocation shall be decided based upon the findings of fact at an administrative hearing before a hearing officer per Chapter 3.06, Provo City Code.~~

~~(v) The approval of a permit for an accessory apartment shall automatically expire three (3) years after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new owner may apply for an extension of such accessory apartment permit.~~

~~(vi) The owner shall record a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment is constructed and occupied. This deed restriction shall run with the land as long as the property is in the (A) overlay zone, or otherwise contains an accessory apartment as provided in this Chapter.~~

~~(f) Prior Uses. The Community Development Department shall issue a permit for any accessory apartment existing at the time of the adoption of this Chapter if the following conditions are met:~~

~~(i) The accessory apartment complies with this Title; and~~

~~(ii) A building permit was issued when the accessory apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall pay an inspection fee and the Chief Building Official ("CBO") or his designee shall inspect the accessory apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued.~~

~~**14.46.040. Additional Development Standards.**~~

~~Each one family dwelling with an accessory apartment shall conform to the development standards required by the provisions of the underlying zone with which the (A) zone is combined.~~

~~**14.46.050. Area of Zone.**~~

~~Within any A1, RA, or R1 zone, the Accessory Apartment (A) overlay zone shall be applied only to a land area of four (4) acres or more which contains at least sixteen (16) existing dwelling structures, and which is at least fifty percent (50%) developed. Such land area shall be free from islands or peninsulas or any other unreasonable boundary line configurations.~~

~~**14.46.060. Petition for Zone Adoption.**~~

~~(New 1993-13, Am 1999-56, Rep 2007-14)~~

~~**14.46.070. Nonconforming Uses.**~~

~~Properties nonconforming as to use and occupancy, created by the application of this zone, shall be issued, upon request, a certificate of nonconforming use, which shall permit the continued use of the property as is; provided, that the use complied with all regulations at the time the occupancy was established, and that all necessary permits were obtained.~~

**15.04.050. Density and Open Space Determination.**

...

(7) In order to achieve the bonus density allowed by this Section and promote affordable housing, flexibility in housing styles shall be permitted. While dwelling units allowed as part of the base density shall comply with the

provisions of the underlying zoning district, any of the dwelling units to be constructed as a result of a density bonus may be attached units (such as twin homes, condominium units, zero lot line units, patio homes, etc.) or accessory dwelling units. The number of attached units in a structure shall not exceed four (4). No attached units shall be constructed above or below other dwelling units, except that accessory dwelling units, meeting the standards of Provo City Code Chapter 14.3046, Provo City Code, may be located above or below a main dwelling unit or above a garage.

**PROVO CITY CONSOLIDATED FEE SCHEDULE**

...

**COMMUNITY DEVELOPMENT**

...

**Other Community Development Fees**

<del>Accessory Apartment Licensing Inspection License Processing Fee</del>	<del>\$</del>
Bond Release Processing Fee	\$100.00
Time Extension	\$100.00
Demolition Permit	\$100.00
Relocation of a Building	\$100.00
Unauthorized Changes to an Approved Plan	\$500.00

...